

Appl. No. 10/076,051 Amdt. dated Reply to Office action of March 23, 2005

REMARKS/ARGUMENTS

Claims 1-50 remain in this application.

In response to the Office Action of March 23, 2005, Applicant requests re-examination and reconsideration of this application for patent pursuant to 35 U.S.C. 132.

Applicant wishes to thank the Examiner for the courtesies extended to Applicant and their representative during a teleconference held on May 19, 2005.

Rejection under 35 USC 103(a)

Claims 1-12 and 26-36 stand rejected under 35 U.S.C. 103(a) as allegedly being unpatentable over Cohen et al. (US 5,173,218). Cohen et al (column 1, line 51; to column 2, line 7; column 2, lines 44 et seq; column 3, lines 12-36 and 40; column 4, lines 13 et seq; column 5, lines 66; examples and claims) is alleged to disclose the formation of a porous flexible plasticized structure (column 1, lines 53 et seq) employing chemiluminescent compositions with multiple particle size distributions of polymeric particles. Cohen et al at (column 3, lines 13-36) is further alleged to disclose methods of making the materials and to characterize the slurry compositions as capable of being cast, molded, extruded and blow molded. Said characterization is alleged to be consistent with a "fluidized solid" as claimed.

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Cohen et al admittedly differs from the claims in the characterization of the slurry composition as a "fluidized solid" and in the use of functional language defining the amount of second particulate effective to yield a fluidized solid admixture. Cohen et al (examples, particularly example 1) is further alleged to disclose the formation of a thick paste of a fine particle size (200 nm to 1.5 microns) followed by curing and the addition of a second particle size (medium size 70-75 microns and large 150 microns) to form a very thick smooth mixture. The Examiner thus concludes that it would have been obvious to one of ordinary skilled in the art at the time of applicants' invention to employ paste or thixotropic slurries with the multiple particle size polymers disclosed in the Cohen et al reference as very thick smooth mixtures.

The claims have been instantly amended to preclude the "fluidizable solid admixture" and are now more accurately limited to a moist, packable and formable powder chemiluminescent reactant composition. It is pointed out that the reference to Cohen, at Example 1, only talks of a thick paste in the context of an intermediate, in which the PVC particles then dissolve and to ultimately yield a thick slurry which is peelable subsequent to curing. This differs significantly from the moist, packable and formable powder chemiluminescent reactant composition as instantly claimed.

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Claims 13-25 and 37-50 are further rejected under 35 U.S.C. 103(a) as being unpatentable over Cohen et al, US 5,173,218. as applied to claims 1-12 and 25-37 above, and further in view of Holland et al, US 5,158,349, and Roberts, US 3,808,414.

Cohen et al admittedly further differs from claims 13-25 and 37-45 in the multidimensional chemiluminescent reactive system wherein the reactants are separate until the desired time of use. The Examiner indicates that:

Holland et al (figures and columns 2-5) and Roberts (figures and column 2, lines 1-37, particularly 16-20) disclose chemiluminescent package systems include systems having multiple compartments that may be open to mixing reactive components.

Holland et al discloses concentric tubules, wherein when the inner tubule is ruptured, the chemiluminescent materials react resulting in chemiluminescence.

Roberts discloses a package, wherein when the clip is removed the reactive components mix and react resulting in chemiluminescence.

The Examiner further indicates that these references are combinable because they teach chemiluminescent compositions, methods of making and packaging therefore, and concludes that it would have been obvious to one of ordinary skill in the art at the time of Applicants' invention to employ multicomponent

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packages of Holland et al and Roberts for the Cohen et al materials to form a chemiluminescent effect and the advantage of storage and preserving said chemiluminescent effect until a desired time.

In view of the deficiencies pointed out in Cohen, it is respectfully submitted that the claims, as instantly amended, are now free of the prior art rejection.

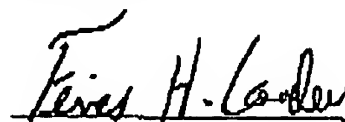
Since the Cohen reference teaches a thick paste of particles only as an intermediate, there is a clear demarcation between the Cohen disclosure of a thick paste intermediate and the instantly claimed moist, packable and formable powder chemiluminescent reactant composition. This is a difference in kind, and there being no motivation to combine the thick paste of Cohen with the secondary references, as indicated in the Office action, the rejection thereof ought to be withdrawn and the claims passed to issue.

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SUMMARY

In light of the foregoing remarks and amendment to the claims, it is respectfully submitted that the Examiner will now find the claims of the application allowable. Favorable reconsideration of the application is courteously requested.

Respectfully submitted,



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